IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22281 of 2004

Between:

J. Lucy W/o Govardhan
A.P. Residential School for Girsl, Medak

..... PETITIONER

AND

The A.P. Residential Educational Institutions Society, rep by its Secretary, III Floor Gaganvihar, Nampally, Hyderabad

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction, more particularly one in the nature of Writ of Mandamus, declaring the order of the Respondent in Rc. No. 21559/A3-2/2004, dated 1-11-2004 as arbitrary illegal, malafide contrary to the Judgment in WP No. 20533/95 & batch contemptuous, Violative of Articles 14, 16 and 21 of the Constitution of India, and consequently set-aside the same and direct the Respondents to promote the petitioner as post Graduate Teacher in English with effect from the date of promotion of her Junior with all the benefits.

Counsel for the Petitioner: MR.KASAJAGANMOHAN REDDY

Counsel for the Respondent : MR.VIJAYA BHASKAR MOOLA

The Court, at the stage of admission, made the following :

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ORAL ORDER:

Challenging the proceedings in R.C.No.21559/A3-2/2004, dated 1.11.2004 issued by the respondent rejecting the case of the petitioner for promotion from the post of Trained Graduate Teacher (T.G.T.) in Bio-science to the post of Post Graduate Teacher (P.G.T.) in English, this writ petition has been filed.

The case of the petitioner is that she has been working as Trained Graduate Teacher in the respondent-society since 1985. She was possessing B.Sc. and B.Ed. in Bio-science at the time of her appointment. Later, she acquired M.A. in English Literature and became qualified for promotion to the post of Post Graduate Teacher in English. In the year 1992, though several candidates were qualified for promotion to the post of P.G.T., they were ignored on the ground that they did not possess B.Ed. in English Methodology and teaching experience in English. Aggrieved by the same, W.P.No.20533 of 1995 and batch were filed. During the pendency of the said petitions, the service rules were amended. A Division Bench of this Court, while dealing with the above batch of cases, rendered its judgement on 24.10.1997. The writ petitioner filed W.P.No.21559 of 1999 to consider her case for promotion to the post of P.G.T. in English in the lines of judgement in W.P.No.18718 of 1995, dated 24.10.1997 and it was allowed. Thereafter, the respondent preferred W.A.No.993 of 2000, which was allowed. The case of the petitioner was rejected on the ground that she was not possessing B.Ed. in English Methodology. Thereafter, she prosecuted B.Ed. in English and also a Diploma Course in English language taught from Osmania University. Thus, she satisfied all the qualifications. She made a representation on 3.3.2004 to the respondent for promotion to the post of P.G.T. in English. The respondent did not pass any order, but

rejected her case. She filed another W.P.No.14197 of 2004 with a direction to the respondent to consider her case for promotion and that case was disposed of directing the respondent to consider the petitioner's case as per the judgment passed in W.P.No.20533 of 1995 and batch. Hence, the present writ petition.

The respondent filed counter affidavit admitting the appointment of the petitioner as T.G.T. in Bio-science in the year 1985. The service rules of the society provide the provisions of getting promotion from the cadre of T.G.T to the cadre of P.G.T. in their respective subjects only. The petitioner filed two W.P.Nos. 21559 of 1999 and 14197 of 2004 for the same relief. Hence, the present writ petition is not maintainable. Against the orders of W.P.No.21599 of 1999, the respondent filed W.A.No.993 of 2000 and the same was allowed on 29.10.2001. As per the directions of the High Court in the said writ petition, the society considered the promotion of T.G. Teachers, who are having relevant subject with class in Post Graduation and B.Ed. to the post of P.G. Teachers except the experience of teaching for a period of two years. The petitioner was not covered by that judgment. The petitioner did not have the requisite qualification at that time. Therefore, the case of the petitioner was not considered along with the employees whose cases were considered for cross promotions. The society took a decision not to give cross promotions in its Standing Committee meeting held on 27.3.1996 and the same was confirmed in the Board of Governors meeting held on 15.3.1997. The Board of Governors also approved the same. Therefore, the case of the petitioner was not considered for promotion to the post of P.G.T. The present rules do not permit the petitioner to promote her from the cadre of T.G.T in Bio-science to the cadre of P.G.T. in English. Therefore, there is no justification for claiming promotion. Hence, the respondent prays to dismiss the writ petition.

Heard the learned counsel for both the parties and perused the material on record.

The learned counsel for the petitioner has contended that as per the

judgment of this Court in W.P.No.20533 of 1995 and batch the bar against the 'cross promotions' does not necessarily mean that the promotee should have teaching experience in the relevant subject. He further contended that denying the promotion on the ground of lacking of teaching experience for two years is illegal and arbitrary and that the petitioner is fully qualified for promotion to the post of P.G.T. in English. Hence, he prays to allow the writ petition.

On the other hand, the learned standing counsel for the respondent has vehemently contended that as per the existing rules, one of the conditions is one must have two years of teaching experience in T.G.T. but the petitioner did not have such experience and therefore, she is not qualified to be promoted, and the case of the petitioner is rightly rejected and there are absolutely no grounds to allow the writ petition.

On earlier occasion, the petitioner filed W.P.No.21559 of 1999 to consider her case for promotion to the post of P.G.T. in English in the lines of the judgment in W.P.No.18718 of 1995, dated 24.10.1997 and that writ petition was allowed. Against which, a W.A.No.993 of 2000 was preferred by the respondent and it was allowed by an order dated 29.10.2001 and the case of the petitioner was rejected on the ground that she was not possessing B.Ed. in English Methodology as required under the amended rules. Thereafter, the writ petitioner prosecuted her B.Ed. in English and Diploma Course in English taught from Osmania University and submitted a representation to the respondent-society to consider her promotion. As no orders have been passed, she filed W.P.No.14197 of 2004 seeking a direction to the respondent to consider her case for promotion. This Court, by an order, dated 21.9.2004, directed the respondent to consider the petitioner's representation dated 3.3.2004 and after satisfying that she is qualified to get promotion to P.G. Teacher in English, may pass appropriate orders duly taking into consideration the order of this Court passed in W.P.No.20533 of 1995 and batch. Thereupon, the impugned proceedings have been passed which read as follows:

"In the reference 1st cited, Smt.J.Lucy, TGT in Bi0-Science, A.P.R. School (G), Medak filed a Writ Petition in the Hon'ble High Court for her promotion as PGT in English.

In the reference 2nd cited, the Hon'ble High Court issued a judgment dt.21.9.2004 on the W.P.NO.14197 of 2004 copy received on 6.10.2004. The operation part of the judgment is as follows:-

> *"In the light of the circumstances explained by the Petitioner, the respondent is directed to consider the representation of the petitioner, dated 3.3.2004 and after satisfying that she is qualified to get promotion as a PG Teacher in English, may pass appropriate order on the said representation within four weeks from the date of receipt of a copy of this order of this Court passed in W.P.No.20533 of 1995 and Batch while passing orders on her representation".*

Smt. J.Lucy is hereby informed that as per the decision taken earlier by the standing committee of A.P.R.E.I. Society the standing committee did not agree for the issue of cross promotions to the TGTs. As PGTs. And it was communicated in proceedings Rc.No.689/C3-1/96, dt.18.4.1996 and the same was confirmed in the Board of Governors meeting. It is further noticed in the Hon'ble High Court orders that the petitioner's case may be considered as per the W.P.NO.20533 of 1995. In this regard the Society filed W.A.NO.993 of 2000 against the same petitioner, the Hon'ble High Court considered the W.P.NO.20533 of 1995 and batch of cases and allowed the same in favour of the Society. As such your case for promotion from the post of TGT Bio-Science to PGT in English is examined and rejected."

As per the amended rules, the following qualifications are necessary for promotion to the post of P.G Teacher in English

a. *I or II class M.A./M.Sc. Degree with not less than 50% of marks in the relevant subjects.*

b. *I or II class B.Ed. degree with relevant subjects as one of the method of teaching.*

c. *At least 2 year experience as T.G.T. in a residential school of the society.*

As far as Class (a) is concerned, the petitioner is possessing M.A.

(English) in II division, and as regards Clause (b), the petitioner acquired B.Ed. degree with relevant subject as one of the methods of teaching English after disposal of her earlier writ petitions, but she did not possess the qualification i.e. two years of experience in T.G.T in a residential school of the society. It is also not in dispute that the society took a decision not to give cross promotions in its Standing Committee meeting held on 27.3.1996 and the same was confirmed by the Board of Governors meeting held on 15.3.1997. The Board of Governors also approved the decision of the Standing Committee not to give cross promotions. With regard to this aspect, a Division Bench of this Court in W.P.No.20533 of 1995 between U. Giridhar Kishore Vs. A.P.R.E.I. Society and batch, held to the following effect:

> "*It is true that the Standing Committee was against giving cross promotions and the same was recited by the Governing Body while approving the amendments to the Rules. But, the bar against the 'cross-promotions' does not necessarily mean that the promotee should have teaching experience in the relevant subject. "Cross-Promotions' can as well be understood in a limited sense of promotions of candidates not having the study qualifications in the concerned subject. We are, therefore, of the view that the respondents were not justified in overlooking most of the petitioners for promotion on the ground that they did not possess teaching experience of two years in the relevant subject though they were otherwise qualified and senior enough to be promoted."*

Therefore, the Division Bench directed the respondent to give promotions to the petitioners without insisting on their teaching experience in the relevant subject. Of course, they are subject to the suitability and fulfilment of other criteria. The Division Bench also held that the denial of promotions to some of the petitioners on the ground that they did not possess the teaching experience of two years in the relevant subject is illegal and arbitrary. That finding has become final which became a binding precedent.

The contention of the learned counsel for the respondent that the petitioner filed writ petitions earlier for the same relief and

therefore, the present writ petition is not maintainable or earlier the petitioner filed writ petition No.21559 of 1999 which was allowed and against which W.A.No.993 of 2000 was filed wherein the case of the petitioner was rejected on the ground that she was not possessing B.Ed. in English Methodology, is only devoid of merit.

Now, the claim of the petitioner is that she acquired B.Ed. with methods of teaching English and also Diploma course in English language taught from Osmania University and therefore, the case of the petitioner has to be considered, but the respondent rejected her case on the ground that W.P.No.993 of 2000 was allowed in favour of the society. It is a fact W.A.No.993 of 2001 was allowed and the case of the petitioner was rejected on the ground that she was not possessing B.Ed. in English Methodology. After dismissal of the said appeal, the petitioner obtained B.Ed. with relevant subjects as one of the methods of teaching and Diploma course in English. Without adverting to the decision rendered in the writ appeal and also W.P.No.20533 of 1995 and batch the impugned proceedings have been passed.

The only ground that was taken in the counter is that the present rules do not permit the petitioner to promote her from the cadre of T.G.T in Bio-Science to that of P.G.T in English as it was decided not to give cross promotions. It is not disputed before this Court that the petitioner is having qualification of methodology in English at present.

The impugned proceedings do not contain any reasons for rejection of cross promotion, but solely based on the judgements of this Court. The impugned proceedings suffer from legal infirmities warranting interference by this Court. Accordingly, the impugned proceedings are quashed and set aside.

Following the judgement of the Division Bench in W.P.No.20533 of 1995 and batch, I consider it appropriate to direct the respondent to give promotion to the petitioner without insisting on teaching experience in the relevant subject, of course, subject to the

suitability and fulfilment of other criteria and also availability of the vacancies from the date of acquiring necessary qualification i.e. B.Ed. in English Methodology.

In the result, the writ petition is allowed to the extent indicated above. In the circumstances of the case, there shall be no order as to costs.

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(K.C. BHANU, J.)

January, 2005.

bcj

To

1. The Secretary, The A.P. Residential Educational Institutions Society, III Floor Gaganvihar, Nampally, Hyderabad

2. Two C.D. copies.